



House of Representatives

File No. 609

General Assembly

February Session, 2004

(Reprint of File No. 172)

House Bill No. 5018
As Amended by House
Amendment Schedules
"A" and "B"

Approved by the Legislative Commissioner
April 16, 2004

**AN ACT CONCERNING THE PREPARATION OF MATERIALS FOR
REFERENDA CALLED FOR BY A REGIONAL SCHOOL DISTRICT
AND CONCERNING BUDGETS OF REGIONAL SCHOOL DISTRICTS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 9-369b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) [Any] Except as provided in subsection (b) of this section, any
4 municipality may, by vote of its legislative body, authorize the
5 preparation and printing of concise explanatory texts of local
6 proposals or questions approved for submission to the electors of a
7 municipality at a referendum. In a municipality that has a town
8 meeting as its legislative body, the board of selectmen shall, by
9 majority vote, determine whether to authorize an explanatory text or
10 the dissemination of other neutral printed material. Thereafter, each
11 such explanatory text shall be prepared by the municipal clerk, subject
12 to the approval of the municipal attorney, and shall specify the intent

13 and purpose of each such proposal or question. Such text shall not
14 advocate either the approval or disapproval of the proposal or
15 question. The municipal clerk shall cause such question or proposal
16 and such explanatory text to be printed in sufficient supply for public
17 distribution and shall also provide for the printing of such
18 explanations of proposals or questions on posters of a size to be
19 determined by said clerk. At least three such posters shall be posted at
20 each polling place at which electors will be voting on such proposals or
21 questions. Any posters printed in excess of the number required by
22 this section to be posted may be displayed by said clerk at the clerk's
23 discretion at locations which are frequented by the public. The
24 explanatory text shall also be furnished to each absentee ballot
25 applicant pursuant to subsection (d) of section 9-140. Except as
26 provided in subsection [(c)] (d) of this section, no expenditure of state
27 or municipal funds shall be made to influence any person to vote for
28 approval or disapproval of any such proposal or question. Any
29 municipality may, by vote of its legislative body and subject to the
30 approval of its municipal attorney, authorize the preparation and
31 printing of materials concerning any such proposal or question in
32 addition to the explanatory text if such materials do not advocate the
33 approval or disapproval of the proposal or question. This subsection
34 shall not apply to a written, printed or typed summary of an official's
35 views on a proposal or question, which is prepared for any news
36 medium or which is not distributed with public funds to a member of
37 the public except upon request of such member.

38 (b) For any referendum called for by a regional school district, the
39 regional board of education shall authorize the preparation and
40 printing of concise explanatory texts of proposals or questions
41 approved for submission to the electors of a municipality at a
42 referendum. The regional school board of education's secretary shall
43 prepare each such explanatory text, subject to the approval of the
44 regional school board of education's counsel, and shall undertake any
45 other duty of a municipal clerk, as described in subsection (a) of this
46 section.

47 [(b)] (c) The State Elections Enforcement Commission, after
48 providing an opportunity for a hearing in accordance with chapter 54,
49 may impose a civil penalty on any person who violates subsection (a)
50 or (b) of this section by authorizing an expenditure of state or
51 municipal funds for a purpose which is prohibited by subsection (a) of
52 this section. The amount of any such civil penalty shall not exceed
53 twice the amount of the improper expenditure or one thousand
54 dollars, whichever is greater. In the case of failure to pay any such
55 penalty imposed under this subsection within thirty days of written
56 notice sent by certified or registered mail to such person, the superior
57 court for the judicial district of Hartford, on application of the
58 commission, may issue an order requiring such person to pay the
59 penalty imposed. Notwithstanding the provisions of sections 5-141d,
60 7-101a and 7-465, as amended, any other provision of the general
61 statutes, and any provision of any special act or charter, no state or
62 municipal officer or employee shall be indemnified or reimbursed by
63 the state or a municipality for a civil penalty imposed under this
64 subsection.

65 [(c)] (d) Any municipality may provide, by ordinance, for the
66 preparation and printing of concise summaries of arguments in favor
67 of, and arguments opposed to, local proposals or questions approved
68 for submission to the electors of a municipality at a referendum for
69 which explanatory texts are prepared under subsection (a) or (b) of this
70 section. Any such ordinance shall provide for the establishment or
71 designation of a committee to prepare such summaries, in accordance
72 with procedures set forth in said ordinance. The members of said
73 committee shall be representatives of various viewpoints concerning
74 such local proposals or questions. The committee shall provide an
75 opportunity for public comment on such summaries to the extent
76 practicable. Such summaries shall be approved by vote of the
77 legislative body of the municipality, or any other municipal body
78 designated by the ordinance, and shall be posted and distributed in the
79 same manner as explanatory texts under subsection (a) of this section.
80 Each summary shall contain language clearly stating that the printing

81 of the summary does not constitute an endorsement by or represent
82 the official position of the municipality.

83 Sec. 2. Section 7-405 of the general statutes is repealed and the
84 following is substituted in lieu thereof (*Effective July 1, 2004*):

85 (a) When annual appropriations have not been made by a
86 municipality before the beginning of any fiscal year, the disbursing
87 officers may make necessary expenditures during the period of ninety
88 days after the beginning of such year on proper warrants for purposes
89 and in amounts authorized by the appropriating body or by the board
90 of finance or other budget-making authority. When annual
91 appropriations have not been made by such municipality before the
92 end of such ninety-day period, the disbursing officers may make
93 necessary expenditures during successive monthly periods in such
94 year on proper warrants for purposes and in amounts authorized by
95 the appropriating body or by the board of finance or other budget-
96 making authority within the limits of appropriations specified in
97 budgetary line items for the previous fiscal year. For this purpose,
98 necessary borrowing may be authorized by resolution of the budget-
99 making authority, provided all such borrowing shall mature and be
100 payable not later than the end of the fiscal year for which such
101 borrowings are made. Any notes so authorized may be issued and sold
102 in the manner provided by such resolution. Such expenditures
103 authorized by this section and interest costs and other expenses
104 incidental to any such borrowing shall constitute the first charges
105 against appropriations for the fiscal year in which they are made.

106 (b) Notwithstanding the provisions of subsection (a) of this section,
107 when an annual budget of a regional school district is not approved by
108 a majority of voters of the member towns of such district before the
109 beginning of any fiscal year, the disbursing officer for each member
110 town of the regional school district shall make necessary expenditures
111 to such district in an amount equal to the total of the town's
112 appropriation to the district for the previous fiscal year and the town's
113 proportionate share in any increment in debt service over the previous

114 fiscal year, until the regional school district budget is approved
115 pursuant to section 10-51, as amended by this act. Each such town shall
116 receive credit for such expenditures once the budget is approved for
117 the fiscal year.

118 Sec. 3. Subsection (a) of section 10-51 of the general statutes is
119 repealed and the following is substituted in lieu thereof (*Effective July*
120 *1, 2004*):

121 (a) The fiscal year of a regional school district shall be July first to
122 June thirtieth. Except as otherwise provided in this subsection, not less
123 than two weeks before the annual meeting held pursuant to section 10-
124 47, the board shall hold a public district meeting to present a proposed
125 budget for the next fiscal year. Any person may recommend the
126 inclusion or deletion of expenditures at such time. After the public
127 hearing, the board shall prepare an annual budget for the next fiscal
128 year, make available on request copies thereof and deliver a reasonable
129 number to the town clerk of each of the towns in the district at least
130 five days before the annual meeting. At the annual meeting on the first
131 Monday in May, the board shall present a budget which includes a
132 statement of (1) estimated receipts and expenditures for the next fiscal
133 year, (2) estimated receipts and expenditures for the current fiscal year,
134 (3) estimated surplus or deficit in operating funds at the end of the
135 current fiscal year, (4) bonded or other debt, (5) estimated per pupil
136 expenditure for the current and for the next fiscal year, and (6) such
137 other information as is necessary in the opinion of the board. Persons
138 present and eligible to vote under section 7-6 may accept or reject the
139 proposed budget except as provided below. No person who is eligible
140 to vote in more than one town in the regional school district is eligible
141 to cast more than one vote on any issue considered at a regional school
142 district meeting or referendum held pursuant to this section. Any
143 person who violates this section by fraudulently casting more than one
144 vote or ballot per issue shall be fined not less than three hundred
145 dollars or more than five hundred dollars and shall be imprisoned not
146 less than one year or more than two years and shall be
147 disenfranchised. The regional board of education may, in the call to the

148 meeting, designate that the vote on the motion to adopt the budget
149 shall be by paper ballots at the district meeting held on the budget or
150 by a "yes" or "no" vote on the voting machines in each of the member
151 towns on the day following the district meeting. If submitted to a vote
152 by voting machine, questions may be included on the ballot for
153 persons voting "no" to indicate whether the budget is too high or too
154 low, provided the vote on such questions shall be for advisory
155 purposes only and not binding upon the board. Two hundred or more
156 persons qualified to vote in any regional district meeting called to
157 adopt a budget may petition the regional board, in writing, at least
158 three days prior to such meeting, requesting that any item or items on
159 the call of such meeting be submitted to the persons qualified to vote
160 in the meeting for a vote by paper ballot or on the voting machines in
161 each of the member towns on the day following the district meeting
162 and in accordance with the appropriate procedures provided in section
163 7-7. If a majority of such persons voting reject the budget, the board
164 shall, within four weeks thereafter and upon notice of not less than one
165 week, call a district meeting to consider the same or an amended
166 budget. Such meetings shall be convened at such intervals until a
167 budget is approved. If the budget is not approved before the beginning
168 of a fiscal year, the disbursing officer for each member town, or the
169 designee of such officer, shall make necessary expenditures to such
170 district in amounts equal to the total of the town's appropriation to the
171 district for the previous year and the town's proportionate share in any
172 increment in debt service over the previous fiscal year, pursuant to
173 section 7-405, as amended by this act, until the budget is approved.
174 The town shall receive credit for such expenditures once the budget is
175 approved for the fiscal year. After the budget is approved, the board
176 shall estimate the share of the net expenses to be paid by each member
177 town in accordance with subsection (b) of this section and notify the
178 treasurer thereof. With respect to adoption of a budget for the period
179 from the organization of the board to the beginning of the first full
180 fiscal year, the board may use the above procedure at any time within
181 such period. If the board needs to submit a supplementary budget, the
182 general procedure specified in this section shall be used.

183 Sec. 4. (NEW) (*Effective July 1, 2004*) Any person (1) claiming to have
184 been aggrieved by any ruling of any election official in connection with
185 a referendum, (2) claiming that there has been a mistake in the count of
186 votes cast for a referendum, or (3) claiming to be aggrieved by a
187 violation of any provision of section 9-355, 9-357 to 9-361, inclusive, as
188 amended, 9-364, 9-364a or 9-365 of the general statutes in the casting of
189 absentee ballots at a referendum, may bring a complaint to any judge
190 of the Superior Court for relief from such ruling, mistake or violation.
191 In any action brought pursuant to the provisions of this section, the
192 complainant shall send a copy of the complaint by first class mail, or
193 deliver a copy of the complaint by hand, to the State Elections
194 Enforcement Commission. If such complaint is made prior to such
195 referendum, such judge shall proceed expeditiously to render
196 judgment on the complaint and shall cause notice of the hearing to be
197 given to the Secretary of the State and the State Elections Enforcement
198 Commission. If such complaint is made subsequent to such
199 referendum, it shall be brought within thirty days after such
200 referendum to any judge of the Superior Court, in which the person
201 shall set out the claimed errors of the election official, the claimed
202 errors in the count or the claimed violations of said sections. Such
203 judge shall forthwith order a hearing to be held upon such complaint,
204 upon a day not more than five nor less than three days from the
205 making of such order, and shall cause notice of not less than three nor
206 more than five days to be given to any person who may be affected by
207 the decision upon such hearing, to such election official, the Secretary
208 of the State, the State Elections Enforcement Commission and to any
209 other party or parties whom such judge deems proper parties to the
210 hearing, of the time and place for the hearing upon such complaint.
211 Such judge shall, on the day fixed for such hearing and without
212 unnecessary delay, proceed to hear the parties. If sufficient reason is
213 shown, such judge may order any voting machines to be unlocked or
214 any ballot boxes to be opened and a recount of the votes cast, including
215 absentee ballots, to be made. Such judge shall, if such judge finds any
216 error in the rulings of the election official or any mistake in the count
217 of the votes, certify the result of such judge's finding or decision to the

218 Secretary of the State before the tenth day succeeding the conclusion of
219 the hearing. Such judge may order a new referendum or a change in
220 the existing referendum schedule. Such certificate of such judge's
221 finding or decision shall be final and conclusive upon all questions
222 relating to errors in the ruling of such election officials, to the
223 correctness of such count, and, for the purposes of this section only,
224 such claimed violations, and shall operate to correct the returns of the
225 moderators or presiding officers, so as to conform to such finding or
226 decision, except that this section shall not affect the right of appeal to
227 the Supreme Court and it shall not prevent such judge from reserving
228 such questions of law for the advice of the Supreme Court as provided
229 in section 9-325 of the general statutes. Such judge may, if necessary,
230 issue a writ of mandamus, requiring the adverse party and those
231 under such judge to deliver to the complainant the appurtenances of
232 such office, and shall cause such judge's finding and decree to be
233 entered on the records of the Superior Court in the proper judicial
234 district.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>July 1, 2004</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>July 1, 2004</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Elect. Enforcement Com.	GF - None	None	None
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
All Municipalities	STATE MANDATE - Cost	Potential	Potential
Member towns of Regional School Districts	See Below	See Below	See Below

Explanation

This bill establishes a statutory right to bring a complaint to Superior Court within 30 days of a referendum when a person claims to have been aggrieved in connection with the referendum.

Any person may bring a complaint under current law when they are aggrieved in connection with a referendum. It is uncertain if specifying a person's right to bring a complaint in statute would affect the caseload of the Superior Court. Any potential impact is anticipated to be minor, however, and could be accommodated without additional appropriations to the Judicial Department.

As a result of this bill, the State Elections Enforcement Commission may incur a workload increase, which will not require additional funding.

Municipal Impact

This bill may result in a potential cost to municipalities. Under this bill, if sufficient reason is shown, a Superior Court judge may order a new referendum. The extent to which specifying the court's authority in statute would increase the likelihood that new referenda would be ordered is unknown. The cost to municipalities to hold a referendum varies by town population. Small towns, such as Andover and Bethany, can hold a referendum for \$1,000 to \$2,500. Large cities, such as Bridgeport and Stamford, can hold a referendum for approximately \$50,000 to \$70,000.

This bill requires towns, which are members of regional school districts to disburse funds to the district for necessary expenditures in the absence of an annual budget approved by a majority of voters. Since the bill requires that the disbursement be equal to the previous years' appropriation plus an accommodation for increased debt service and such budgets generally increase from year-to-year the bill is not anticipated to have any fiscal impact.

Finally, The bill, which clarifies the procedure for the authorization and dissemination of printed material for a referendum called for by a regional school district, has no fiscal impact.

House "A" dealt with the disbursement of funds to regional school districts in the absence of a annual budget and has the fiscal impact as described above.

House "B" established a statutory right to bring a complaint to Superior Court within 30 days of a referendum when a person claims to have been aggrieved in connection with the referendum, and has the fiscal impact as described above.

OLR BILL ANALYSIS

HB 5018 (as amended by House "A" and "B")*

***AN ACT CONCERNING THE PREPARATION OF MATERIALS FOR
REFERENDA CALLED FOR BY A REGIONAL SCHOOL DISTRICT***

SUMMARY:

The law allows any municipality, by vote of its legislative body, to authorize the printing and preparation of concise explanatory texts of local proposals or questions approved for submission to the municipality's electors at a referendum. This bill allows the board of selectmen in a town whose legislative body is a town meeting to decide by majority vote whether to authorize dissemination of an explanatory text or other neutral printed material. For a regional school district referendum, the bill requires (1) the regional board of education to authorize the preparation and printing of concise explanatory texts; (2) the regional board's secretary to prepare the texts, subject to the board's counsel; and (3) the secretary to undertake all of the responsibilities with respect to the questions, proposals, and texts that the law already specifies for town clerks in towns conducting referenda.

When a regional school district's annual budget is not approved by a majority of the voters of its member towns before the beginning of the fiscal year, the bill directs each member town's disbursing officer to make reasonable expenditures to the district until the budget is approved. These expenditures must be equal to the town's total appropriation to the district for the previous fiscal year and its proportionate share in any increment in debt service over the previous fiscal year. The bill requires each of the towns to receive credit for these expenditures once the new budget is approved.

This bill creates a statutory right to bring a complaint when anyone claims to have been aggrieved in connection with a referendum by (1) an election official's ruling, (2) a mistake in the vote count, or (3) a violation of prohibited acts concerning absentee voting. A person may file a complaint with any Superior Court judge following the bill's

procedures, which are similar to those available for contests and complaints in an election for public office.

*Senate Amendment "A" adds the regional school district budget provisions.

*Senate Amendment "B" adds the statutory right to bring a complaint about a referendum.

EFFECTIVE DATE: July 1, 2004, except for the provision on preparing materials for a regional school district referendum, which takes effect upon passage.

REFERENDUM COMPLAINT PROCEDURES

After filing the complaint with a judge, the complainant must send or deliver a copy of it to the State Elections Enforcement Commission (SEEC). When the complaint is filed before the referendum takes place, the judge must give the secretary of the state and SEEC notice of a hearing and render judgment expeditiously.

A complaint made after the referendum must be brought to a judge within 30 days after the referendum. The judge must order a hearing to take place from three to five days later, giving three to five days' notice to the election official who is the subject of the complaint, the secretary, SEEC, and any other affected parties.

If sufficient reason is shown at the hearing, the judge may order a recount. The judge has 10 days after the hearing to certify his ruling if he finds any error in an election official's ruling or mistake in the vote count. (If voting machines are used at a referendum, the moderator locks and seals them when the count is completed. By law, they remain locked, but only for 14 days unless the SEEC issues an order or there is a recanvass in case of a discrepancy, in which case they stay locked for a longer period. Under the bill's provision allowing a complaint up to 30 days after a referendum, the machines may have already been unlocked and cleared by the time a complaint is filed.) The judge may order a new referendum or a change in the existing referendum schedule.

The judge's ruling is final and conclusive as to the questions relating to the complaint. The referendum returns must be corrected to conform

to the ruling. But the bill allows a party to appeal the ruling to the state Supreme Court. If a question of law is raised at the hearing that any party claims needs Supreme Court review, the judge must transmit it to the chief justice, who must call a special session of the Court to hear the question immediately.

If necessary, the Superior Court judge may issue a writ of mandamus to enforce his order and enter his finding and decree in the Superior Court records.

BACKGROUND

Legislative History

The House referred the bill (File 172) to the Education Committee on March 30, which favorably reported it without change on March 31.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 17 Nay 0

Education Committee

Joint Favorable Report

Yea 22 Nay 0